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March 12, 2007

**VIA FACSIMILE**

To: Examiner Mark Huff  
Group Art Unit No. 1756  
U.S.P.T.O.

Facsimile No.: (571) 273-8300

From: Scott M. Tulino

Facsimile No.: (703) 761-2375 or 76

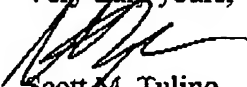
Re: Attached Petition under 37 C.F.R. §1.181 to Withdraw Objection and Declaration under  
37 C.F.R. §1.132  
U.S. Patent Application Serial No. 10/662,340  
Our Reference: NGB.293

Dear Examiner Huff:

Attached is a Petition under 37 C.F.R. §1.181 to Withdraw Objection and Declaration  
under 37 C.F.R. §1.132, which we request that you enter and which should place the application  
in condition for allowance.

Thank you in advance for your consideration on this case.

Very truly yours,

  
Scott M. Tulino  
Sean M. McGinn

SMT/SMM/ernh  
Attachment

Total No. of Pages Transmitted: 6(including this cover sheet)

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MAR 12 2007

Serial No.: 10/662,340  
Attorney Docket No.: H64-154706M/TNM

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Junji Kobayashi, et al.

Serial No.: 10/662,340                      Group Art Unit: 1756  
Filed: September 16, 2003                      Examiner: Janis L. Dote  
For: ELECTROSTATIC CHARGE IMAGE DEVELOPING TONER AND IMAGE  
FORMING APPARATUS USING THE SAME

Honorable Commissioner of Patents  
Alexandria, VA 22313-1450**PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW OBJECTION**

Sir:

Applicants respectfully petition under 37 C.F.R. §1.181 that the Examiner's objection to the Specification be withdrawn.

The Examiner has objected to the Amendment filed on December 9, 2004 under 35 U.S.C. 132(a) for introducing new matter into the disclosure. The Examiner, however, is clearly incorrect.

That is, in the Examiner's Office Action dated September 22, 2004, the Examiner objected to the Specification because "In example 1, the sum of the amounts of the components in the toner, i.e., 85 wt% for binder resin, 1 wt% for charge control agent, 10 wt% for carbon black, 4.25 wt% for polyethylene wax, and 0.75 wt% for paraffin wax, is 101 wt%. It is not clear how the sum of weight percentages based on the total weight of the toner can be other than 100 wt%" (see Office Action dated September 22, 2004 at page 2). In the Amendment filed on December 9, 2004 Applicants amended the Specification to recite 84 wt % of binder resin to correct an apparent typographical error.

Applicants submit that it would have been apparent to one of ordinary skill in the art

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Docket No. H64-154706M/TNM  
Ref. No. NGB.293

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that Applicants merely amended the specification to correct a typographical error and did not add new matter to the Specification.

Applicants concurrently file herewith a Declaration under 37 C.F.R. 1.132 stating that the Amendment to the Specification made on December 9, 2004 merely corrected an obvious typographical error and did not enter new matter into the Specification. The Declaration is submitted as an unexecuted Declaration. Applicants will shortly file an executed copy of the Declaration.


Furthermore, Applicants submit that the material to be amended relates to "a fixing resin" recited in the claims. In the claims, "a fixing resin" is recited merely as a basic component and does not relate to the compound ratio of the added wax, which is the subject matter of the claimed invention.

Therefore, Applicants submit that the scope of the claims is neither extended nor changed by the Amendment.

Accordingly, Applicants petition for the withdrawal of the objection to the Specification.

Date: March 12, 2007

Respectfully Submitted,

  
\_\_\_\_\_  
Scott M. Tulino, Esq.  
Registration No. 48,317

Sean M. McGinn, Esq.  
Registration No. 34,386

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Docket No. H64-154706M/TNM  
Ref. No. NGB.293


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FACSIMILE TRANSMISSION

I hereby certify that I am filing this paper via facsimile, to Group Art Unit 1756, at  
(571) 273-8300, on March 12, 2007.

Respectfully Submitted,

Date: March 12, 2007



\_\_\_\_\_  
Scott M. Tulino, Esq.  
Reg. No. 48,317

Sean M. McGinn, Esq.  
Reg. No. 34,386

MAR 12 2007

Serial No.: 10/662,340 1  
Attorney Docket No.: H64-154706M/TNM  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Junji Kobayashi, et al.

Serial No.: 10/662,340 Group Art Unit: 1756  
Filed: September 16, 2003 Examiner: Janis L. Dote  
For: ELECTROSTATIC CHARGE IMAGE DEVELOPING TONER AND IMAGE  
FORMING APPARATUS USING THE SAME

**DECLARATION UNDER 37 C.F.R. § 1.132**

Honorable Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir: We, Junji Kobayashi, Hirobumi Ouchi, Shigenori Yaguchi, Ryuichi Shimizu and

Tsuneaki Kawanishi, hereby declare and state:

THAT we are citizens of Japan residing at Ibaraki, Japan;

THAT we graduated from Tohoku University, Ibaraki University, Chuo University, a technical high school, and Shizuoka University, receiving a Bachelor of Engineering degree, a Bachelor of Engineering degree, a Bachelor of Engineering degree, a technical high school diploma, and a Master of Engineering degree, respectively;

THAT we are familiar with the Office Action dated January 12, 2007, where the Examiner objected to the amendment to the Specification filed on December 9, 2004 as allegedly introducing new matter into the Specification at page 29, line 12;

THAT we are co-inventors of the above-identified application;

With respect to the amendment to the specification, we state and declare that the original recitation of 85 wt% for binder resin in the Specification was a typographical error

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and that the correct weight percentage for the binder resin should have been recited as 84 wt% binder resin. We fully intended for the original specification to recite 84 wt%. Furthermore, we state and declare that the amendment to the Specification filed on December 9, 2004, replacing 85 wt% with 84 wt% merely corrected an obvious typographical error.

Therefore, we disagree with the Examiner's allegation that the amendment to the Specification filed on December 9, 2004 introduced new matter into the Specification.

We declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: \_\_\_\_\_

\_\_\_\_\_  
Junji Kobayashi

Date: \_\_\_\_\_

\_\_\_\_\_  
Hirobumi Ouchi

Date: \_\_\_\_\_

\_\_\_\_\_  
Shigenori Yaguchi

Date: \_\_\_\_\_

\_\_\_\_\_  
Ryuichi Shimizu

Date: \_\_\_\_\_

\_\_\_\_\_  
Tsuneaki Kawanishi